

1                                   IN THE UNITED STATES DISTRICT COURT  
2                                   FOR THE DISTRICT OF HAWAII

3           TODD YUKUTAKE and                                   ) CIVIL NO. 19-00578JMS-RT  
4           DAVID KIKUKAWA,                                    )  
  ) Honolulu, Hawaii  
5                           Plaintiffs,                        ) August 4, 2021  
  )  
6                           vs.                                    )  
  ) [54] PLAINTIFFS' MOTION FOR  
7           CLARE E. CONNORS, in her                         ) SUMMARY JUDGMENT  
          Official Capacity as the                         ) [60] DEFENDANT CLARE E.  
8           Attorney General of the                         ) CONNORS, IN HER OFFICIAL  
          State of Hawaii,                                    ) CAPACITY AS THE ATTORNEY  
9   ) GENERAL OF THE STATE OF  
   ) HAWAII'S COUNTER MOTION FOR  
10                           Defendant.                        )  
  ) SUMMARY JUDGMENT

11                                   TRANSCRIPT OF VIDEO TELECONFERENCE PROCEEDINGS  
12                                   BEFORE THE HONORABLE J. MICHAEL SEABRIGHT,  
13                                   CHIEF UNITED STATES DISTRICT JUDGE

14 APPEARANCES:

15           For the Plaintiffs:           ALAN ALEXANDER BECK, ESQ.  
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21           For the Defendant:           KENDALL J. MOSER, ESQ.  
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2     Official Court  
3     Reporter:

Cynthia Fazio, RMR, CRR, CRC  
United States District Court  
300 Ala Moana Blvd., C-270  
Honolulu, Hawaii 96850

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25     Proceedings recorded by machine shorthand, transcript produced  
with computer-aided transcription (CAT).

1 WEDNESDAY, AUGUST 4, 2021 8:59 A.M.

2 THE COURTROOM MANAGER: Civil Number 19-00578JMS-RT,  
3 Todd Yukutake and David Kikukawa versus Clare E. Connors in her  
4 official capacity as the Attorney General of the State of  
5 Hawaii.

6 This case has been called for further hearing on  
7 Plaintiffs' Motion for Summary Judgment and Defendant's  
8 Countermotion for Summary Judgment conducted by video  
9 teleconference.

10 Counsel, please make your appearances for the record.

11 MR. BECK: Alan Beck on behalf of the plaintiffs.

12 THE COURT: Yes, good morning.

13 MR. BECK: Good morning, Your Honor.

14 MR. STAMBOULIEH: Stephen Stamboulieh on behalf of the  
15 plaintiffs, Your Honor.

16 THE COURT: Yes, good morning.

17 MR. STAMBOULIEH: Good morning.

18 MR. MOSER: Good morning, Your Honor. Kendall Moser  
19 for defendant Clare Connors in her official capacity.

20 THE COURT: All right. Yes, good morning.

21 Okay. So I wanted to get everyone together to let you  
22 know sort of where I stand and next steps, I want to talk about  
23 next steps. It is my intent to grant Plaintiffs' Motions for  
24 Summary Judgment in whole and deny Defendant's Motion for  
25 Summary Judgment. And this raises the issue that I discussed

1 at the hearing about sort of whether there should be a period  
2 of time to allow a legislative fix here. You know, what do I  
3 do about effective date of the order because I really don't  
4 want to throw into question the validity of the rest of these  
5 laws at all. And obviously it's only these provisions which  
6 can be excised out, but I don't really have a sense of whether,  
7 you know, how destructive that might be to the entire process.

8 So my thought is to ask you folks to -- obviously,  
9 Mr. Moser, without you waiving any arguments as to the merits  
10 of this, I understand that, to be very clear here, but to have  
11 you folks, you know, consult and see if you can reach some  
12 stipulation. If not, provide me your views on this is my  
13 thought. But I'll hear from both -- both of you -- maybe I'll  
14 start with you, Mr. Moser, because this, you know, impacts the  
15 state law.

16 MR. MOSER: Yes, Your Honor. Thank you.

17 On behalf of Defendant Connors, we would like to ask  
18 the Court to delay entry of the judgment for 30 days. That  
19 would allow us to receive the decision, review it, discuss it  
20 with whomever we need to discuss it with, including potentially  
21 the governor, and then decide on a course of action, which  
22 could include, of course, a decision whether to take an appeal,  
23 possibly. I'm not saying we're doing that, I'm just saying we  
24 need time to consider that.

25 THE COURT: Right.

1           MR. MOSER: And then also, and/or whether to seek a  
2 legislative fix. And as the Court is well aware, I'm sure  
3 having resided here these many years that the Hawaii  
4 legislature doesn't come back into session for sometime from  
5 now.

6           THE COURT: Right.

7           MR. MOSER: Not until mid January. So we would like  
8 30 days to consider what -- after we receive the Court's  
9 decision what course of action to take next.

10          THE COURT: Okay. Mr. Beck, what's your view on that?

11          MR. BECK: I don't really have a problem with 30 days.

12          THE COURT: Okay. All right. Just so the language is  
13 exactly what you're thinking of, Mr. Moser, can you draft some  
14 language that you want in the order, run it by Mr. Beck, and  
15 then if you folks can, you know, agree on that language e-mail  
16 that to the orders inbox so I can make sure I know exactly what  
17 you're thinking of as far as that language, Mr. Moser?

18          MR. MOSER: Yes, I will do that, Your Honor.

19          THE COURT: Or you can actually file it. Instead of  
20 the orders inbox, why don't you go ahead and file it. It  
21 probably should be part of the record. And it sounds like you  
22 two are in general agreement on this, it's just wordsmithing.  
23 Making sure it says exactly what you want it to say. I mean it  
24 may be as simple as, you know, the Court delays entry of  
25 judgment for -- I usually don't say 30 days, I give a specific

1 date, but we can count, you know, a month out, a month later  
2 essentially is what I would do.

3 MR. MOSER: Thank you.

4 THE COURT: Okay. So if you folks can try to work on  
5 that and get me something by Friday, that would be great.

6 MR. BECK: Yes, Your Honor.

7 THE COURT: Okay? Anything else then at this point,  
8 Mr. Beck?

9 MR. BECK: No, Your Honor.

10 THE COURT: Mr. Moser?

11 MR. MOSER: No. Thank you, Your Honor.

12 THE COURT: Okay. All right. Thank you both very  
13 much.

14 MR. BECK: I'm sorry.

15 THE COURT: Okay.

16 MR. BECK: Sorry, Judge Seabright. Sorry, Ms. Honda.

17 THE COURT: That's okay.

18 MR. BECK: Roughly when -- you might not want to  
19 answer this. Roughly when should we expect the decision? The  
20 opinion or decision itself?

21 THE COURT: You know, I think within a week is fair,  
22 Mr. Beck. It's in final stages, sort of just final cite  
23 checking and typo review, that sort of thing that I do as a  
24 matter of course in my office. And so, you know, once I get  
25 this information from you folks, my hope is it won't take too

1 long after that to get this finalized.

2 MR. BECK: Thank you, Your Honor.

3 THE COURT: Okay? All right. Okay. Thank you all.

4 (The proceedings concluded at 9:04 a.m.,  
5 August 4, 2021.)

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COURT REPORTER'S CERTIFICATE

I, CYNTHIA FAZIO, Official Court Reporter, United States District Court, District of Hawaii, do hereby certify that pursuant to 28 U.S.C. §753 the foregoing pages is a complete, true, and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

DATED at Honolulu, Hawaii, September 30, 2021.

/s/ Cynthia Fazio  
CYNTHIA FAZIO, RMR, CRR, CRC